

SECOND REGULAR SESSION

# HOUSE BILL NO. 1948

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES REID, DAVIS, GEORGE, BARRY, SCOTT, MARBLE, MAYER,  
HENDRICKSON, CUNNINGHAM, McKENNA (Co-sponsors), ROBIRDS, LUETKEMEYER,  
MOORE AND REINHART.

Read 1<sup>st</sup> time February 14, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4634L.01I

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### AN ACT

To repeal section 610.021, RSMo, relating to terrorism, and to enact in lieu thereof twelve new sections relating to the same subject, with penalty provisions, an expiration date for a certain section and an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 610.021, RSMo, is repealed and twelve new sections enacted in lieu thereof, to be known as sections 38.050, 610.021, 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, to read as follows:

**38.050. 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Terrorism, Bioterrorism, and Homeland Security" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. The appointment of each member shall continue during the member's term of office as a member of the general assembly or until a successor has been appointed to fill the member's place when his or her term of office as a member of the general assembly has expired. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14           **2. The joint committee shall:**

15           **(1) Make a continuing study and analysis of all state government terrorism,**  
16 **bioterrorism, and homeland security efforts;**

17           **(2) Devise a standard reporting system to obtain data on each state government**  
18 **agency that will provide information on each agency's terrorism, bioterrorism, and**  
19 **homeland security status at least biennially;**

20           **(3) Determine from its study and analysis the need for changes in statutory law;**

21           **(4) Make any other recommendation to the general assembly necessary to provide**  
22 **adequate terrorism, bioterrorism, and homeland security to the citizens of the state of**  
23 **Missouri.**

24           **3. The joint committee shall meet within ten days after its creation and organize by**  
25 **selecting a chairperson and a vice chairperson, one of whom shall be a member of the**  
26 **senate and the other a member of the house of representatives. The chairperson shall**  
27 **alternate between members of the house and senate every two years after the committee's**  
28 **organization.**

29           **4. The regular meetings of the committee shall be in Jefferson City, Missouri, and**  
30 **after its inception and organization it shall meet at least quarterly. The committee may**  
31 **meet at locations other than Jefferson City, Missouri, when the committee deems it**  
32 **necessary.**

33           **5. The committee may employ such personnel as is deemed necessary to assist the**  
34 **committee in the performance of its duties.**

35           **6. The members of the committee shall serve without compensation but shall be**  
36 **entitled to reimbursement for actual and necessary expenses incurred in the performance**  
37 **of their official duties.**

38           **7. It shall be the duty of the committee to compile a full report of its activities for**  
39 **submission to the general assembly. The report shall first be submitted by January 15,**  
40 **2003, and not later than the fifteenth of January of each year thereafter in which the**  
41 **general assembly convenes in regular session and shall include any recommendations**  
42 **which the committee may have for legislative action as well as any recommendations for**  
43 **administrative or procedural changes in the internal management or organization of state**  
44 **or local government agencies and departments. Copies of the report containing such**  
45 **recommendations shall be sent to the appropriate directors of state or local government**  
46 **agencies or departments included in the report.**

47           **8. The provisions of this section shall expire on December 31, 2007.**

610.021. Except to the extent disclosure is otherwise required by law, a public  
2 governmental body is authorized to close meetings, records and votes, to the extent they relate

3 to the following:

4       (1) Legal actions, causes of action or litigation involving a public governmental body  
5 and any confidential or privileged communications between a public governmental body or its  
6 representatives and its attorneys. However, any minutes, vote or settlement agreement relating  
7 to legal actions, causes of action or litigation involving a public governmental body or any agent  
8 or entity representing its interests or acting on its behalf or with its authority, including any  
9 insurance company acting on behalf of a public government body as its insured, shall be made  
10 public upon final disposition of the matter voted upon or upon the signing by the parties of the  
11 settlement agreement, unless, prior to final disposition, the settlement agreement is ordered  
12 closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the  
13 action clearly outweighs the public policy considerations of section 610.011, however, the  
14 amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed;  
15 provided, however, in matters involving the exercise of the power of eminent domain, the vote  
16 shall be announced or become public immediately following the action on the motion to  
17 authorize institution of such a legal action. Legal work product shall be considered a closed  
18 record;

19       (2) Leasing, purchase or sale of real estate by a public governmental body where public  
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,  
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale  
22 of real estate by a public governmental body shall be made public within seventy-two hours after  
23 execution of the lease, purchase or sale of the real estate;

24       (3) Hiring, firing, disciplining or promoting of particular employees by a public  
25 governmental body when personal information about the employee is discussed or recorded.  
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,  
27 promote or discipline an employee of a public governmental body must be made available with  
28 a record of how each member voted to the public within seventy-two hours of the close of the  
29 meeting where such action occurs; provided, however, that any employee so affected shall be  
30 entitled to prompt notice of such decision during the seventy-two-hour period before such  
31 decision is made available to the public. As used in this subdivision, the term "personal  
32 information" means information relating to the performance or merit of individual employees;

33       (4) The state militia or national guard or any part thereof;

34       (5) Nonjudicial mental or physical health proceedings involving identifiable persons,  
35 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or  
36 treatment;

37       (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including  
38 records of individual test or examination scores; however, personally identifiable student records

39 maintained by public educational institutions shall be open for inspection by the parents,  
40 guardian or other custodian of students under the age of eighteen years and by the parents,  
41 guardian or other custodian and the student if the student is over the age of eighteen years;

42 (7) Testing and examination materials, before the test or examination is given or, if it  
43 is to be given again, before so given again;

44 (8) Welfare cases of identifiable individuals;

45 (9) Preparation, including any discussions or work product, on behalf of a public  
46 governmental body or its representatives for negotiations with employee groups;

47 (10) Software codes for electronic data processing and documentation thereof;

48 (11) Specifications for competitive bidding, until either the specifications are officially  
49 approved by the public governmental body or the specifications are published for bid;

50 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals  
51 and related documents or any documents related to a negotiated contract until a contract is  
52 executed, or all proposals are rejected;

53 (13) Individually identifiable personnel records, performance ratings or records  
54 pertaining to employees or applicants for employment, except that this exemption shall not apply  
55 to the names, positions, salaries and lengths of service of officers and employees of public  
56 agencies once they are employed as such;

57 (14) Records which are protected from disclosure by law;

58 (15) Meetings and public records relating to scientific and technological innovations in  
59 which the owner has a proprietary interest;

60 (16) Records relating to municipal hot lines established for the reporting of abuse and  
61 wrongdoing;

62 (17) Confidential or privileged communications between a public governmental body  
63 and its auditor, including all auditor work product; [and]

64 (18) In preparation for and implementation of electric restructuring, a municipal electric  
65 utility may close that portion of its financial records and business plans which contains  
66 information regarding the name of the suppliers of services to said utility and the cost of such  
67 services, and the records and business plans concerning the municipal electric utility's future  
68 marketing and service expansion areas. However, this exception shall not be construed to limit  
69 access to other records of a municipal electric utility, including but not limited to the names and  
70 addresses of its business and residential customers, its financial reports, including but not limited  
71 to its budget, annual reports and other financial statements prepared in the course of business,  
72 and other records maintained in the course of doing business as a municipal electric utility. This  
73 exception shall become null and void if the state of Missouri fails to implement by December  
74 31, 2001, electric restructuring through the adoption of statutes permitting the same in this state;

75 and

76 (19) Specific information on existing or proposed security systems or security  
77 vulnerabilities for any building or property owned or leased by a public governmental  
78 body. Such records may include photographs, schematic diagrams, recommendations, or  
79 consultations made to analyze or enhance security of the building or property. However,  
80 information related to the costs budgeted and expended to protect such structures and  
81 systems shall not be a closed record pursuant to this subdivision. This exception shall  
82 become null and void on December 31, 2007.

Section 1. 1. The chief executive officer of a hospital or his or her designee shall be  
2 responsible for developing a written emergency preparedness plan. The plan shall include  
3 procedures which provide for safe and orderly evacuation of patients, visitors, and  
4 personnel in the event of fire, explosion, or other internal disaster. The plan shall also  
5 include procedures for caring for mass casualties resulting from any external disaster in  
6 the region.

7 2. The emergency preparedness plan shall be readily available to all personnel. The  
8 chief executive officer of the hospital or his or her designee is responsible for ensuring that  
9 all employees are instructed regarding their responsibilities during an emergency. Drills  
10 for internal disasters, such as fires, shall be held at least quarterly for each shift and shall  
11 include the simulated use of fire alarm signals and simulation of emergency fire conditions.  
12 Annual drills for external disasters shall be held in coordination with representatives of  
13 local emergency preparedness offices. The drills shall not require the movement of  
14 hospital patients.

Section 2. Sections 2 to 10 of this act shall be known and may be cited as "The  
2 Terrorism Prevention Act".

Section 3. 1. For the purposes of sections 2 to 10 of this act, the following terms  
2 mean:

3 (1) "Chemical warfare agents", includes, but is not limited to, the following  
4 weaponized agents, or any analog of these agents:

5 (a) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX;

6 (b) Choking agents, including Phosgene (CG) and Diphosgene (DP);

7 (c) Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and  
8 Arsine (SA);

9 (d) Blister agents, including mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3  
10 (nitrogen mustard)), arsenicals, such as Lewisite (L), urticants, such as CX; and  
11 incapacitating agents, such as BZ;

12 (2) "Material support or resources", currency or other financial securities,

13 financial services, lodging, training, safehouses, false documentation or identification,  
14 communications equipment, facilities, weapons, lethal substances, explosives, personnel,  
15 transportation, and other physical assets, except medicine or religious materials;

16 (3) "Nuclear or radiological agents", includes any improvised nuclear device which  
17 is any explosive device designed to cause a nuclear yield; any radiological dispersal device  
18 which is any explosive device utilized to spread radioactive material; or a simple  
19 radiological dispersal device which is any act or container designed to release radiological  
20 material as a weapon without an explosion;

21 (4) "Restricted biological agents", includes the following:

22 (a) Viruses: Crimean-Congo hemorrhagic fever virus, Eastern equine encephalitis  
23 virus, ebola viruses, equine morbilli virus, lassa fever virus, marburg virus, Rift Valley  
24 fever virus, South African hemorrhagic fever viruses (Junin, Machupo, Sabia, Flexal,  
25 Guanarito), tick-borne encephalitis complex viruses, variola major virus (smallpox virus),  
26 Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary syndrome,  
27 yellow fever virus;

28 (b) Bacteria: bacillus anthracis (commonly known as anthrax), brucella abortus,  
29 brucella melitensis, brucella suis, burkholderia (pseudomonas) mallei, burkholderia  
30 (pseudomonas) pseudomallei, clostridium botulinum, francisella tularensis, yersinia pestis  
31 (commonly known as plague);

32 (c) Rickettsiae: coxiella burnetii, rickettsia prowazekii, rickettsia rickettsii;

33 (d) Fungi: coccidioides immitis; and

34 (e) Toxins: abrin, aflatoxins, botulinum toxins, clostridium perfringens epsilon  
35 toxin, conotoxins, diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, staphylococcal  
36 enterotoxins, tetrodotoxin, T-2 toxin;

37 (5) "Sustained fear", can be established by, but is not limited to, conduct such as  
38 evacuation of any building by any occupant, evacuation of any school by any employee or  
39 student, evacuation of any home by any resident or occupant, or any other action taken in  
40 direct response to the threat to use a weapon of mass destruction;

41 (6) "Vector", a living organism or a molecule, including a recombinant molecule,  
42 or a biological product that may be engineered as a result of biotechnology, that is capable  
43 of carrying a biological agent or toxin to a host;

44 (7) "Weapon of mass destruction", includes chemical warfare agents, weaponized  
45 biological or biologic warfare agents, nuclear agents, radiological agents, or the intentional  
46 release of industrial agents as a weapon;

47 (8) "Weaponization", the deliberate processing, preparation, packaging, or  
48 synthesis of any substance for use as a weapon or munition. "Weaponized agents" are

49 those agents or substances prepared for dissemination through any explosive, thermal,  
50 pneumatic, or mechanical means;

51 (9) "Weaponized biological or biologic warfare agents", includes weaponized  
52 pathogens, such as bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered  
53 pathogens, toxins, vectors, and endogenous biological regulators.

54 2. The intentional release of a dangerous chemical or hazardous material generally  
55 utilized in an industrial or commercial process shall be considered use of a weapon of mass  
56 destruction when a person knowingly utilizes those agents with the intent to cause harm  
57 and the use places persons or livestock at risk of serious injury, illness, or death or  
58 significantly endangers the environment.

59 3. The lawful use of chemicals for legitimate mineral extraction, industrial,  
60 agricultural, or commercial purposes is not prohibited by sections 2 to 10 of this act.

61 4. No university, research institution, private company, individual, or hospital  
62 engaged in scientific or public health research and, as required, registered with the Centers  
63 for Disease Control and Prevention pursuant to Part 113 (commencing with Section 113.1)  
64 of Subchapter E of Chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section  
65 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any  
66 successor provisions, shall be subject to sections 2 to 10 of this act.

Section 4. 1. A person commits the crime of possession of a weapon of mass  
2 destruction when he or she knowingly possesses, develops, manufactures, produces,  
3 transfers, acquires, or retains any weapon of mass destruction.

4 2. Possession of a weapon of mass destruction is a class B felony.

Section 5. 1. A person commits the crime of unlawful use of a weapon of mass  
2 destruction when he or she uses or directly employs against another person a weapon of  
3 mass destruction in a form that may cause widespread, disabling illness or injury in human  
4 beings.

5 2. Unlawful use of a weapon of mass destruction is a class A felony.

Section 6. 1. A person commits the crime of destruction of public resources by  
2 using a weapon of mass destruction in a form that may cause widespread and significant  
3 damage to public natural resources, public parkland, surface waters, groundwater, food  
4 supply, livestock, and wildlife.

5 2. Destruction of public resources is a class B felony.

Section 7. 1. A person commits the crime of biological terrorism if he or she uses  
2 recombinant technology or any other biological advance to create new pathogens or more  
3 virulent forms of existing pathogens for the purposes specified in sections 4 to 8 of this act.

4 2. Biological terrorism is a class A felony.

Section 8. 1. Any person who knowingly threatens to use a weapon of mass destruction, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety, or for his or her immediate family's safety, which results in an isolation, quarantine, or decontamination effort, shall be guilty of the crime of threatening to use a weapon of mass destruction.

2. Threatening to use a weapon of mass destruction is a class C felony.

3. The fact that the person who allegedly violated this section did not actually possess a biological agent, toxin, nuclear, or chemical weapon does not constitute a defense to the crime specified in this section.

Section 9. 1. Any person or entity knowingly possessing any of the restricted biological agents enumerated in subsection 3 of this section shall be guilty of the crime of possession of biological agents.

2. Possession of biological agents is a class B felony.

3. This section shall not apply to any physician, veterinarian, pharmacist, or licensed medical practitioner authorized to dispense a prescription, or universities, research institutions, or pharmaceutical corporations, or any person possessing the agents pursuant to a lawful prescription issued by a person defined in section 195.070, RSMo, if the person possesses vaccine strains of the viral agents Junin virus strain #1, Rift Valley fever virus strain MP-12, Venezuelan equine encephalitis virus strain TC-83, and yellow fever virus strain 17-D; any vaccine strain described in Section 78.1 of Subpart A of Part 78 of Subchapter C of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions, and any toxin for medical use, inactivated for use as vaccines, or toxin preparation for biomedical research use at a median lethal dose for vertebrates of more than 100 ng/kg, as well as any national standard toxin required for biologic potency testing as described in Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions.

4. For the purposes of this section, no person shall be deemed to be in possession of an agent if the person is naturally exposed to, or innocently infected or contaminated with, the agent.

5. Any peace officer who encounters any of the restricted agents mentioned above shall immediately notify and consult with a local public health officer to ensure proper



23 consideration of any public health risk.

2       **Section 10. 1. A person commits the crime of soliciting support for an act of**  
3 **terrorism when material support or resources will knowingly be used, in whole or in part,**  
4 **to plan, prepare, carry out, or aid in either an act of, the concealment of, or an escape from,**  
5 **an act of terrorism.**

6       **2. Soliciting support for an act of terrorism is a class C felony, unless the amount**  
7 **of material support or resources exceeds one thousand dollars, in which case it becomes a**  
8 **class B felony.**

9       Section B. Because immediate action is necessary to adequately protect the citizens of  
10 this state from terrorism and bioterrorism, section A of this act is deemed necessary for the  
11 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
12 to be an emergency act within the meaning of the constitution, and section A of this act shall be  
13 in full force and effect upon its passage and approval.